CLASSIFICATION AND RESTORATIVE JUSTICE: IS THERE A RELATIONSHIP?

by Michael Dooley, Correctional Program Specialist, National Institute of Corrections Academy

Many of us in the corrections field have been puzzled by what to do with our traditional, professional perspectives on working with offenders when we are challenged with a rapidly emerging paradigm called restorative justice. Over the course of 25 years, a wealth of information has emerged on how to work effectively with criminal offenders and maintain a healthy margin of public safety when we make decisions about them. This research-based information tells us what kind of data to collect, how to analyze the data, where and how to place and supervise offenders, what programs and treatment interventions to match with offenders, and generally how to impose sanctions on offenders for their offenses. Most correctional agencies have adopted some form of a classification scheme to make decisions, place offenders, and work with them.

However, classification in the field of corrections has traditionally been focused on the risk, danger, and needs of offenders This, restorative justice advocates would argue, reflects the central problem with our traditional justice process: it focuses primarily-often solely-on the offender. Meanwhile, victims of crime and communities that are disrupted by crime are left to pick up the pieces from the harm that was caused them.

The principal characteristic of restorative justice is that it includes processes that involve interactions among victims, communities, and offenders. These stakeholders are the focus and the active participants in the restorative justice paradigm. While a traditional justice framework seeks just punishments and the rehabilitation of offenders, a restorative process seeks to resolve differences and work to heal and repair the harm caused.

This emphasis does not mean that good classification schemes are not valid to the principles and values of restorative justice. On the contrary, the whole concept of classification is quite compatible with restorative justice, but we must expand our perspective and develop models of classification that incorporate the restorative justice paradigm.

Traditional, Offender-Focused Classification

Classification in corrections is a practical tool that uses a systematic approach to analyze and respond to the demands made on correctional services in a context of scarce and limited resources. Our intent is to make informed decisions regarding offenders and to use correctional resources responsibly. This goal requires us, first, to group offenders and their crimes based on certain characteristics. The process

usually involves differentiating three basic elements: the offender population, resources and services available, and the purposes of sentencing. The offender population is segmented into sub-groups, and resources are organized and services are delivered so as to provide an effective match to typed offender sub-groups and individual offenders. Correctional resources are then allocated to respond to the multiple purposes of sentencing, as well as to public interests and expectations-primarily short- and long-term public safety.

Segmenting the offender population. Two dimensions used in a classification scheme have been particularly salient in the corrections field: the "severity of the offense committed" and the degree of "risk to reoffend" that an offender presents.

The severity of offense dimension emphasizes a sanctions and "just desserts" perspective. The focus is on the current offense or offenses that an offender has committed. Penalties are established based on some judgment and form of agreement that different offenses "deserve" different penalties. For example, an armed robber deserves a harsher penalty than someone who commits a retail theft. Many correctional agencies have developed their own offense severity scales. For example, the Vermont Department of Corrections has established five categories of offense severity that range from low, low-moderate, moderate, and high to highest. This scale helps maintain the principle of fairness and equity of punishment, which is the foundation of the just desserts model.

The second dimension, risk to reoffend, has a future orientation based on an historical record and set of offender characteristics. Decisions about offenders are made based on the probability that they will commit an offense at some point in the future. In order to protect the public, it is the job of corrections officials to manage an offender's risk by controlling the offender's opportunity to commit crime and by reducing the factors that contribute to an offender's propensity to commit crime. Risk management implies that we simultaneously intervene to control current offender risk while we target treatment interventions toward factors that will reduce long-term risk.

Delivering effective services. Limited risk management is a concept that has emerged from decades of discussion on the contrast between a "just desserts" model and a "risk management" model in sentencing considerations. Each, taken in its purest form, has a rather different effect in shaping correctional philosophies, purposes, and practices. The aim of limited risk management is to integrate the two perspectives as an effective means to make rational, cost efficient, effective, and equitable decisions about offenders, as well as decisions that are congruent with public and political interests.

Risk management focuses on interventions that control and reduce an offender's risk-that is, the opportunity and propensity to commit further crime. Correctional work is largely structured and organized around this focus. The consideration for fair and equitable punishment serves as a constraint and limits the range of interventions used to manage risk. This limiting nature allows the system to maintain a sense of integrity and consistency by treating people similarly (equitably) who have committed similar crimes. In an extreme illustration, a decision to place a rapist on probation based on his low risk to reoffend would be limited based on the severity of the offense, which is "deserving" of a harsher response. Likewise, a decision to incarcerate for 2 years a high-risk offender convicted of driving with a suspended

license would be limited because the harshness of that penalty is extreme compared to what is "deserved" for this offense. In the overall scheme of offender case management, our decisions that are based on managing offender risk are limited by the severity and nature of the current offense.

Restorative Justice and Classification

Using risk prediction as a classification method for providing correctional services to offenders is problematic when the interests and needs of victims and community citizens are considered. Research suggests that treatment services should be reserved for higher-risk offenders. In fact, it was found that more intensive services were either unrelated to recidivism in low-risk cases or were associated with significantly poorer outcome than was less intensive service. Thus, looking exclusively at risk, it is incumbent on corrections to reserve intensive services for higher-risk offenders and limit our involvement with lower-risk offenders.

Many of us in corrections have translated this research finding into practice that implies it is better to stay out of the lives of low-risk offenders. But where does this leave victims and communities who still experience a harm and a wrong? It tells them that we don't have to account for their interest and need. This notion of classification and case management fails to recognize the needs of victims and the need of offenders to be accountable for repairing the harm they have caused. Restorative justice, when applied, can fill a large void left by traditional offender management tools. Techniques and processes that keep offenders accountable for recognizing the harm they have caused and for repairing that harm will promote the message that justice involves more than controlling and reducing an offender's risk of reoffending. It is also about recognizing the needs and interest of those who have experienced a harm.

Traditional classification models have been reserved for making decisions about sanctioning and rehabilitating offenders, and classification technology has proven to be a promising tool to enhance professional decision-making and offender management. Both fall short in responding to the needs and interests of victims and communities or including victims and communities in the decision-making process.

However, classification can play a critical role in the application of restorative justice values, for restorative justice is entirely compatible with a traditional interest in public safety. Any effort that controls opportunity for victimization and harm is an underpinning of restorative justice. Restorative justice also embraces interventions focused on developing offender competency and on preventing future victimization over the longer term. Severity of offenses committed is a significant factor in restorative justice in that there is at least some harm experienced as a result of the level of crime that has been committed. For example, harm caused to a person who is assaulted is usually greater than to a person whose car stereo is stolen.

Moreover, it is not true that restorative justice is reserved for low-level offenders. In fact, higher-risk and higher-level offenders have likely caused a great deal more harm to victims and communities, and thus it is even more critical that we attend to this greater harm caused. From the vantage of a restorative justice framework, a good classification scheme directs us to better match resources to address these cases. In so doing, we work to heal the harm caused to others while we simultaneously manage the risk and sanction offenders.

By applying restorative justice principles to classification and case management, an agency can turn over some decision-making to communities and victims, freeing always-scarce correctional resources for the supervision and management of more serious offenders. By allowing victims and citizens to play a significant role in the justice process, we have marshaled a whole new array of resources to match with persons who have committed crime.

Risk Classification and Restorative Justice in Practice

In Vermont, a limited risk classification scheme was used as a starting point in developing a restorative justice program and as a basis for advancing and marketing the program. Vermont's offender classification scheme first screens offenders on a two-dimensional matrix addressing risk to reoffend and severity of offense committed. Taken together, these two variables produce a service level designation that is used as the basis for allocating correctional services. (See figure.)

- A simple and validated risk assessment tool is used to determine risk to reoffend. Offenders can receive a risk score of 1 through 6, with 1 representing low risk and 6 representing high risk.

- The second variable, severity of offense, is a policy-driven categorical ranking of offenses. Offenses are judged to be more or less severe by the nature of the behavior and the circumstances of the offense. There are five categories of offense severity: low, low moderate, moderate, high, and highest.

Offense Severity								
	Highest							
	High							
	Moderate							
	Low/Moderate							
	Low							
Risk to Reoffend (Score):		0	1	2	3	4	5	6

Of the total population of offenders sentenced to correctional supervision/incarceration, approximately 65 to 70 percent fell in the less serious areas of the matrix (represented by the non-shaded areas). These offenders were traditionally placed in a lower service or supervision designation. Rather than simply reducing the level of professional service offered to this population, however, Vermont decided to make offenders directly accountable to the communities and victims that were harmed by their offending. Citizens were recruited to sit on panels and meet with offenders. The meetings focused on telling the offender the nature and extent of harm that was caused and on determining with the offender how he/she could make it right. With lower-severity and lower-risk cases, the focus was not on treating the offender, but on addressing the harm caused to victims and communities.

Thus, this approach to classification and what had been learned from the research on what works with offenders resulted in the creation of "reparative probation," a restorative program. This classification designation based on restorative justice principles allowed for matching a whole new array of resources with an appropriate target population.

Additionally, and while not the intent of the original program, it became clear that moderate-offense and higher-risk cases were being sent to the boards for determining the details of a probation sentence. Knowing the risk classification of the offender allowed corrections professionals to work with the boards to determine and reinforce appropriate control and treatment interventions. It also became apparent that all persons who commit crime incur an obligation and are accountable for understanding and repairing the harm they have caused. It is also apparent that while this is a priority for all offenders, some offenders need initial and ongoing professional intervention based the principle of risk management.

This is just one example of how a classification scheme can be used to drive a state-wide implementation of restorative justice. It is clear that some form of classification is needed as jurisdictions and communities begin to develop and implement restorative applications throughout the country. When correctional jurisdictions begin large-scale restorative initiatives, classification processes will help them manage how and what resources and programs can be used to resolve conflict, address victim and community harm, and respond to the risk and treatment needs of offenders.

Beyond this clear link between classification and restorative justice, there is a new approach to expanding classification beyond offenders and offenses. We are now beginning to look at the notion of "high-risk communities" and to find ways to address variables that make communities less safe. We are beginning to find out that restorative practices are very effective at rebuilding relationships within our communities-healthy and cohesive relationships that present great promise in reducing and preventing crime and conflict.

At the same time, we need to be sure that we are sensitive to the idea that harm, from the perspective of restorative justice and real persons, cannot be rudely classified into mere categories. Harm experienced by each and every individual is different, and no classification system can ever define the harm experienced by an individual victim.

For additional information, contact Mike Dooley, Correctional Program Specialist, NIC Academy; telephone (800) 995-6429; email *mdooley@bop.gov*▪